

**SEPARATE STATEMENT OF  
COMMISSIONER KEVIN J. MARTIN**

*Re: Clear Channel Broadcasting Licenses, Inc., Licensee of Station WPLA(FM), Callahan, Florida, WCKT(FM), Port Charlotte, Florida; Citicasters Licenses, L.P., Licensee of Station WXTB(FM), Clearwater, Florida; Capstar TX Limited Partnership, Licensee of Station WRLX(FM), West Palm Beach, Florida, Notice of Apparent Liability for Forfeiture*

I agree with this Notice's conclusion that the licensees at issue apparently violated our indecency rule and public file requirements.

I write separately to emphasize again that we could, and should, be placing higher fines on those who broadcast indecent programming during the hours when children may be watching or listening, in violation of our rules and statute. The governing statute targets "whoever utters" indecent or profane language, and the Commission should not continue to treat an entire program full of indecent "utterances" as just one violation.<sup>1</sup> We should not continue to give a broadcaster who violates our indecency rule at the beginning of a program a "free pass" for the next two hours.

In this case, I would have found numerous violations, for a total indecency fine significantly higher than that proposed (it appears there were at least 49 indecency violations, for a total forfeiture exceeding \$1,000,000).

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<sup>1</sup> See 18 U.S.C. § 1864 ("Whoever utters any obscene, indecent, or profane language by means of radio communication shall be fined under this title or imprisoned not more than two years, or both"), 47 C.F.R. § 73.3999 ("No licensee of a radio or television broadcast station shall broadcast on any day between 6 a.m. and 10 p.m. any material which is indecent").

